



# MEMO

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MEMORANDUM TO: Contractors/Providers

FROM: DHSS Civil Rights Compliance Monitor

SUBJECT: Compliance with Civil Rights Laws and  
The Americans with Disabilities Act

This is to inform you that in order to obtain a contract with the Department of Health and Senior Services, all contractors/providers must comply with all requisite civil rights legislation in the delivery of services. Contract wording has been changed to allow for your assurance that you are in compliance with these laws. Please review the contractual language for these assurances, which includes providing interpreters for persons of Limited English Proficiency (LEP).

The DHSS Civil Rights Compliance Monitor may perform reviews (desk reviews or on-site) of the contractor's records and policies. These reviews will be selected using neutral criteria. If selected for a review, statistical data will be required about the race, age, sex, and disability status of your patients/clients/residents. This data should be available for statistical review.

It is highly recommended that when the self-evaluation survey is received, it should be completed in its entirety and submitted within thirty (30) days of receipt. Please include all requested materials. Thank you in advance for your cooperation in this matter.

Questions about this process may be directed to the Department of Health and Senior Services, Office of Personnel-Civil Rights Compliance Monitor at 573-751-6056.

Following this memo is a guide for your use in filling out the Self-Assurance Survey. Also within the guide you will find details and definitions pertaining to certain civil rights laws; and is provided for your information.

[www.dhss.state.mo.us](http://www.dhss.state.mo.us)

The Missouri Department of Health and Senior Services protects and promotes quality of life and health for all Missourians by developing and implementing programs and systems that provide: information and education, effective regulation and oversight, quality services, and surveillance of diseases and conditions.

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER / SERVICES PROVIDED ON A NONDISCRIMINATORY BASIS.

**DESK REVIEW  
AND  
SELF-EVALUATION  
FOR CIVIL RIGHTS  
COMPLIANCE  
INSTRUCTION GUIDE**

MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES  
Office of Personnel/ Civil Rights Compliance Coordinator  
P.O. Box 570  
Jefferson City, MO 65102-0570  
(573) 751-6056

**DO NOT RETURN THIS GUIDE  
READ AND KEEP FOR YOUR FILES**

## **GUIDE FOR COMPLETION OF THE DESK REVIEW/CIVIL RIGHTS SELF-EVALUATION FORM**

### **SECTION A**

Question 1:

**Reminder:** If you/your office/facility have previously been found in compliance by either the federal Department of Health and Human Services/Office for Civil Rights, the Missouri Department of Social Services or the Missouri Department of Health and Senior Services (you have already filled out a Review/Self-Evaluation form or other DHSS program compliance form), please check “yes” for number 1 and attach a copy of the letter/form stating you are in compliance. If “yes”, you will need to complete ONLY Section A “General Information”, Section E “Technical Assistance”, and Section F “Signature”. Please return it with your attachment(s).

Questions 2,3,4:

Policy statement and complaint procedure and posters. You/your office/facility must have a policy statement as pertains to non-discrimination in offering services to clients or potential clients. Your procedure must also address Civil Rights complaints as they pertain to services. For the purpose of complying with Title VI, [45 CFR part 80.7(b)] and section 504 of the Rehabilitative Act of 1973 [45 CFR part 84.7(b)], it is required that all federal financial recipients provide a mechanism for program participants to file a complaint of discrimination. The Policy and Complaint Procedure must be posted where patients/clients/residents will see it and must be included in the admission or information packet given to each program participant (where appropriate). If you provide services in the homes of patients/clients, you must provide them with a flyer giving this information.

NON-DISCRIMINATION POLICY STATEMENT and COMPLAINT PROCEDURE  
(see sample provided)

NON-DISCRIMINATION IN EMPLOYMENT AND PROVISION OF SERVICES POLICY  
(see sample provided)

Your office/facility must display certain posters required by law. You must also display the DHSS Non-Discrimination Policy Statement in a location visible to all your patients/clients/ residents. If you need the DHSS statement, please check “yes” and give the number of copies you need.

Posters that you are required by law to display can be obtained free-of-charge from the agency the poster represents, or you can download the posters off the internet from the agency’s site. A good site to visit to determine what posters you need is the Missouri Department of Labor and Industrial Relations ( [www.dolir.state.mo.us](http://www.dolir.state.mo.us) ).

Question 5:

Reasoning behind this question falls under the Civil Rights Laws pertinent to vendor compliance: Civil Rights Act of 1964, Title VI . “No person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal assistance to which this part applies.” There are requirements under this Act for data collecting, and are as follows:

### *Requirements:*

1. Designation of Civil Rights Coordinator
2. Public Notification
3. Civil Rights Training (technical assistance can be received from DHSS's HRO)
4. Complaint Procedure
5. Racial/Ethnic Data Collection

### SECTION B and SECTION C

Regulations promulgated by federal government regarding non-discrimination against persons with disabilities generally require two kinds of compliance: program accessibility and facility accessibility. **Services accessibility** means that all persons can avail themselves of the services your business or agency provides, regardless of whether or not they are disabled. **Office/Facility accessibility** means there are not any obstacles to the utilization of your facility that would prohibit on-site participation by a disabled individual.

For facilities that are not accessible to the disabled, an alternative is to refer disabled individuals to another agency that is accessible. Home visits are also an alternative. **However, these alternatives only apply to vendors having fewer than 15 employees, all other facilities must be accessible.**

Auxiliary Aids and Barrier Assistance can be found with the assistance of:

1. Governor's Committee on Employment of People with Disabilities (573) 751-2600 or (800) 877-8249.
2. Missouri School for the Deaf (573) 592-4000
3. Wolfner Library for the Blind and Physically Handicapped (800) 392-2614
4. Relay Missouri (enables telephone communication between the hearing and those who are hearing impaired or deaf.) Voice (800) 735-8466 Teletype (800) 735-2966
5. Assistance with language barriers can usually be found through bi or multi lingual employees, your nearest high school, college/university, or community groups, or through an interpreter/translation service.

### SECTION D

#### PURPOSE OF SELF-EVALUATION FOR COMPLIANCE WITH CIVIL RIGHTS LAWS

There are generally two elements comprising Civil Rights compliance: Service Delivery and Employment.

"Service Delivery" concerns safeguards against unlawful discrimination in the delivery of services that are purchased in whole or in part by federal funds. Nearly every service of the Missouri Department of Health and Senior Services (DHSS) is paid through state administered programs involving federal funds. All such contractors must, therefore, be non-discriminatory in their delivery of services or goods. Federal anti-discrimination laws define the various groups of people (protected classes) to which these laws apply.

The laws that apply to the state agency as a “primary recipient” also apply to contractors as “recipients” for the protected classes of race, color, national origin, religion, age, sex, and disability.

While the Missouri Department of Health and Senior Services is not the enforcing agency regarding discrimination in the contractor’s employment practices, employment data concerning these practices is made relevant to service delivery by Title VI (race, color, national origin) 45 CFR p. 80 (3) and Section 504, Rehabilitation Act of 1973 (as amended, 1974) 45 CFR 84.11, subpart B. If data ever shows an under-utilization of protected classes, it will not be characterized by the state agency as a sanctionable deficiency; however, it may be viewed as an indicator of non-compliance in service delivery.

## **CIVIL RIGHTS LAWS PERTINENT TO CONTRACT COMPLAINT**

- **Civil Rights Act of 1964, as Amended**

### *Title VI:*

No person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, denied benefits of, or otherwise subjected to discrimination under any program or activity receiving federal assistance to which this part applies.

Requirements –

- 1) Designation of a “Civil Rights Coordinator”
- 2) Public notification of a non-discrimination policy
- 3) Civil Rights training for employees
- 4) Designating a particular complaint procedure for clients wanting to file a complaint of discrimination
- 5) Collection of racial/ethnic data \*\*

\*\*Categories to be used in collecting data are:

American Indian or Alaska Native – A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community-recognition (includes Aleuts and Eskimos).

Asian – A person having origins in any of the peoples of the Far east, Southeast Asia, and Indian Subcontinent. This area includes, for example, China, Japan, and Korea.

Bi or Multi-Racial – A person who self-identifies with two (Bi) or more (Multi) categories mentioned above (but can include other racial identities not mentioned above).

Black or African American (Not of Hispanic Origin) – A person having origins in the Black racial groups of Africa.

Hispanic or Latino – A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

Native Hawaiian or other Pacific Islander – A person having origins in any of the original peoples of the Hawaiian Islands or a person having origins in any of the original peoples of the Pacific Islands. This area includes, for example, the Philippine Islands and Samoa.

White (Not of Hispanic Origin) – A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

*Title VII:*

Prohibits discrimination on the basis of race, color, national origin, sex, or religion in all employment activities (i.e., interviews, promotions, disciplinary actions, terminations, etc.)

*Title IX:*

Prohibits discrimination against any person on the basis of sex, in any educational program or activity receiving federal financial assistance, in accordance with Title IX of the Education Amendments of 1972. (P.L. 92-318)

- **Age Discrimination in Employment Act of 1967**

Prohibits discrimination on the basis of age (40 and above) in all employment activities.

- **Rehabilitation Act of 1973**

*Section 503 – Relative to Employment*

No otherwise qualified disabled individual in the United States, as defined (elsewhere in the Act), shall, solely by reasons of disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, under any program or activity receiving federal financial assistance. (P.L. 93-113)

Requirement: Reasonable accommodation must be made to known disabling condition of an employee or an applicant for employment unless it creates an undue hardship on the employer.

*Section 504 – Relative to the Provision of Services*

No qualified disabled person shall, on the basis of disability be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance. (45CFR part 84.4[a])

Requirements:

- 1) Facility must be accessible to the disabled
- 2) Program, benefits or activity must be accessible to the disabled.

- **Age Discrimination Act of 1975, as Amended**

No person in the United States, shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving financial assistance. (45 CFR parts 91.4 and 91.11)

- **Omnibus Budget Reconciliation Act of 1981**  
**Title IX, Health Services and Facilities**  
**Section 190B, (2)**

No person shall, on the grounds of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded, in whole or in part, with funds made available under this part.

- **The Americans with Disabilities Act of 1990**  
**42 U.S.C. 12101 et seq (ADA)**

The purpose of the Act is to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities and to bring persons with disabilities into the economic and social mainstream of American life; to provide enforceable standards addressing discrimination against individuals with disabilities and to ensure that the federal government plays a central role in enforcing these standards on behalf of individuals with disabilities.

- **Civil Rights Act of 1991**

The Act provides appropriate remedies for intentional discrimination and unlawful harassment in the workplace. It also overturned recent decisions of the Supreme Court by expanding the scope of relevant Civil Rights Statutes in order to provide adequate protection to victims of discrimination.

## **DEFINITIONS**

**APPLICANT** – One who submits an application or request to receive services, benefits or participates in any program or activity funded by or in part with federal monies.

**CFR** – Code of Federal Regulations

**CONTRACTOR** – Any public or private agency, institution, organization, individual or other entity receiving federal funds for providing services (i.e., nursing homes, child care providers, physicians, therapists, etc.)

**DISABLED VETERAN** – A veteran who is entitled to compensation (or who but for the receipt of benefits, would be entitled to compensation) for a service-connected disability under the laws administered by the Veteran's Administration.

**INDIVIDUALS WITH DISABILITIES** – Any person who has a physical or mental impairment that substantially limits one or more of the person's major life activities, or who has a record of such impairment, or who is regarded as having such impairment.

**MINORITY GROUP** – Includes all defined, protected classes based on race and gender. Specifically, African-American, Hispanic or Latino, Asian/Pacific Islander, American Indian/Alaskan Native and female.

**VIETNAM ERA VETERAN** – Any veteran who served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam Era (August 5, 1964 through May 7, 1975) and who was discharged or released from service with other than a dishonorable discharge inclusive of those discharged or released from active duty for a service-connected disability.